



The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND FOUR

AN ACT TO RESTORE FINANCIAL STABILITY IN THE CITY OF SPRINGFIELD

Be it enacted by the Senate and the House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1.

The general court hereby finds that:

- 1) The city of Springfield has a projected structural deficit for fiscal year 2005 exceeding twenty million dollars.
- 2) Without significant changes the city projects an increasing structural deficit in fiscal year 2006.
- 3) As a result of such structural deficits, the city is unable to enact a balanced budget and is in fiscal crisis.
- 4) The fiscal crisis poses an imminent danger to the safety of citizens of the city and their property.
- 5) Without an approved balanced budget, the city will be unable to collect property taxes during part or all of fiscal year 2005.

NOTE. – Use ONE side of paper ONLY. DOUBLE SPACE. Insert additional leaves, if necessary.

- 6) The city may be unable to obtain reasonable access to credit markets.
- 7) The city's credit has been downgraded to a sub-investment rating.
- 8) The city has received fiscal 2004 local aid from the commonwealth in excess of \$260 million, representing over 60 percent of its operating budget, a proportion in keeping with that of recent years.
- 9) The provisions of special acts approved in 1989, 1991 and 1996 have not been successful in achieving fiscal stability for the city.
- 10) In order to assure a comprehensive long-term solution to the city's financial problems, it is necessary to enact extraordinary remedies, including a finance control board and, if necessary, a receiver, with the powers necessary to achieve the intent of this act.
- 11) The governor has recommended to the general court pursuant to section 8 of Article LXXXIX of the Articles of Amendment to the Constitution that legislation be enacted to resolve the financial emergency in the city and to restore financial stability to the city.

SECTION 2. To provide for certain unanticipated obligations of the commonwealth and to meet certain requirements of law, the sums set forth herein are hereby appropriated from the Springfield Fiscal Recovery Trust Fund established in section 3 of this act unless specifically designated otherwise herein, for the several purposes and subject to the conditions specified herein, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 2004.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary

- 1599-2020 For fiscal recovery grants to the city of Springfield to be administered by the Springfield finance control board established in section 6 of this act, or the receiver established in section 7 of this act, subject to the approval of the secretary for administration and finance; provided, that the funds appropriated herein shall be available for expenditure through June 30, 2007\$20,000,000
- 1599-2021 For the operating expenses of the Springfield finance control board established in section 6 of this act, subject to the approval of the secretary for administration and finance; provided, that the funds appropriated herein shall be available for expenditure through June 30, 2007.....\$2,000,000
- 1599-2023 For an interest-free loan to the city of Springfield; provided, that the loan shall be disbursed to the city from time to time in such amounts and upon such terms and conditions as shall be determined by the finance control board and approved by the secretary for administration and finance; provided further, that the said terms and conditions may provide that payment of money on account of tax receivables be paid over to the commonwealth to reduce any loan balance; provided further, the city shall repay such loan on a schedule proposed by the finance control board and approved by the

secretary for administration and finance; provided however, that the city shall repay the entire balance of the loan no later than June 30, 2007; provided further, that such repayments shall be deposited in the commonwealth's general fund; and provided further, that the funds appropriated herein shall be available for expenditure through June 30, 2007\$30,000,000

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established and set up on the books of the commonwealth the Springfield Fiscal Recovery Trust Fund, the sole purpose of which shall be to fund the items appropriated in section 2 of this act. Effective June 30, 2004, the comptroller shall transfer to the fund \$52,000,000 from the general fund. The fund shall be established as a separate trust fund, subject to the control of the secretary for administration and finance, who shall serve as the trustee and who may approve expenditures from the fund without further appropriation. The fund shall expire on June 30, 2007.

SECTION 4. Notwithstanding the provisions of section 2 of chapter 44A of the general laws, the city of Springfield may apply for the designation of revenue anticipation notes authorized under section 4 of chapter 44 as qualified debt, and may be authorized to issue such notes as qualified debt for so long as the board established by section 6 continues in existence, or for the period of any receivership under section 7.

SECTION 5. The operation of both chapter 150E of the general laws, with the exception of section 9A thereof, and of chapter 31 of the general laws, is hereby suspended in the city of Springfield for as long as the board established by section 6 continues in existence, or for the period of any receivership under section 7.

SECTION 6. There shall be established in the city of Springfield a finance control board which shall consist of five members: three designees of the secretary of the executive office for administration and finance, the mayor of the city of Springfield and the president of the city council of Springfield. The board shall act by a majority vote of all its members. The secretary of the executive office for administration and finance may fix stipends to be paid to members of the board other than the mayor, which stipends shall be paid from line item 1599-2021. The board shall initiate and assure the implementation of appropriate measures to secure the financial stability of the city, and shall continue in existence at least until June 30, 2007, and thereafter for such period as the members may vote to continue its existence, provided however that the secretary of administration and finance may at any time abolish the board.

Action by the board under the authority of this act shall in all respects constitute valid and lawful action by the city for all purposes under the general laws and under any special law.

Until the board ceases to exist, no appropriation, borrowing authorization, transfer, including transfer from or replenishment of funds into the supplemental reserve fund under section 7 of chapter 656 of the Acts of 1989, or other municipal spending authority shall take effect until approved by the board. The board shall approve all appropriations, borrowing authorizations, transfers, or any other municipal spending authorizations, in whole or part.

In addition to the authority and powers conferred elsewhere in this act, and notwithstanding any general or special law, city charter provision, or local ordinance to the contrary, the board shall have the following powers:

(a) The power to amend at any time any appropriation, borrowing authorization, transfer, or other municipal spending authorization. The power to amend, pursuant to the authority contained in this act, shall include the power to increase or decrease an existing appropriation,

borrowing authorization, transfer or spending authorization, and to change the scope of spending purposes within any appropriation or other spending authorization; the power to eliminate an existing appropriation, borrowing authorization, transfer or spending authorization; and the power to create an appropriation, transfer or spending authorization. In exercising its power under this clause, the board may act with respect to municipal spending purposes that are not the subject of separately identified appropriations. All powers under this section shall apply to the school department and school budget as fully as to any other appropriations, transfers or spending authorizations, notwithstanding the provisions of section 34 of chapter 71 of the general laws;

(b) If there is no annual budget lawfully established for a fiscal year by June 10th preceding the beginning of the fiscal year, the board shall have the power to establish such appropriations for that fiscal year, as the board deems appropriate, and to amend, as provided for above, such appropriations during the fiscal year;

(c) The power to encumber or impound, at any time, any unexpended or unencumbered appropriation or spending authority of any kind, notwithstanding the prior approval of the board of such appropriation or spending authority. To the extent that funds for operating purposes previously encumbered or impounded remain encumbered or impounded at the conclusion of the fiscal year, such amounts shall revert to the general fund, to the extent that the source of the spending authority was unrestricted revenues or funds of the city;

(d) The power to establish, set, raise or lower any fee, rate or charge, for any service, license, permit or other municipal activity, that is within the power of the city to establish, set, raise or lower. No such fee, rate or charge shall be established, set, raised or lowered without written notice to the city clerk at least 21 days before the effective date of such action.

(e) The power to accept or to rescind on the city's behalf, its acceptance of, or any prior acceptance of, any local option acceptance provision contained in any general or special law.

(f) The power to hire staff, as the board deems appropriate to further the purposes of this act. The compensation of personnel hired pursuant to this paragraph shall be determined and fixed by the board and paid from line item 1599-2021. Staff hired under the authority of this subsection shall be deemed employees of the commonwealth, unless otherwise designated by the board;

(g) The power to approve the allocation of the tax levy through the selection of a residential factor pursuant to section 56 of chapter 40 of the general laws; no choice of a residential factor under section 56 shall be valid until it has been approved by the board;

(h) The power to appoint, remove, supervise and to exercise control over all employees and officers of the city including those of the school department. No city officer or employee shall hire, fire, transfer or alter the compensation, benefits or duties of any employee without the written approval of the board;

(i) The power to determine all compensation, benefits and other terms of employment of all employees and officers of the city, whether or not elected, including those of the school department;

(j) The power to determine whether any health insurance plan providing coverage to city employees and retirees is to be a self-insured or an insured plan;

(k) In order to promote and ensure the fiscal stability of the city, the board may require the filing of a detailed annual work plan by each municipal department, which shall be approved by the department head, setting forth certain actions to be implemented by each such department through its department head to ensure greater efficiency in the delivery of services by the city.

Every such work plan shall be in such detail as the board may prescribe, and may include, but not be limited to, the following: (1) a plan for improved financial and spending controls; (2) budget guidelines and objectives for the fiscal year; (3) a professional and nonprofessional staffing plan; (4) a plan for proposed savings and the implementation thereof. Any such plan submitted by the school department shall be approved by the school committee prior to submission to the board.

During the course of each fiscal year in which the board is in existence, the board may require that a written status report be submitted to it by each department head on a quarterly basis.

The board may waive any reporting or filing requirement contained in this section.

The board may prepare reports of its findings and issue recommendations for further action to the mayor, city council, school committee, municipal department heads, or agencies of the commonwealth, as the board determines appropriate. The board may adopt such rules and procedures that it considers necessary and appropriate to effectuate the purposes of this act;

(l) All powers under the general laws and this or any other special act, any charter provision or ordinance, that any elected officials of the city could exercise, acting separately or jointly. With respect to any such exercise of powers by the board, the elected officials of the city shall not rescind or take any action contrary to such action by the board so long as the board continues to exist.

(m) The power to alter or rescind any action or decision of any municipal officer, employee, board or commission within 14 days after receipt of notice of such action or decision.

(n) The power to promulgate rules, procedures and regulations, as it deems appropriate, to carry out the purposes of this act.

SECTION 7. If the board established by section 6 concludes that its powers are insufficient to restore fiscal stability to the city of Springfield, it shall so notify the secretary for administration and finance, and shall forward to him a statement of the reasons why it has been unable to restore fiscal stability to the city. Upon receipt of such statement, the secretary for administration and finance may terminate the existence of the board, notwithstanding the provisions of section 6, and may appoint a receiver for the city for a period as he may determine. The secretary may at any time and without cause remove the receiver and appoint a successor, or terminate the receivership. The secretary shall determine the salary of the receiver, which salary shall be payable by the city.

The receiver shall have the following powers:

- (a) All powers of the finance control board under section 6 of this act. Such powers shall continue in the receiver and shall remain through the period of any receivership.
- (b) The power to exercise any function or power of any municipal officer or employee, whether elected or otherwise.
- (c) The power to file a petition in the name of the city under Chapter 9 of Title 11 of the United States Code, and to act on the city's behalf in any such proceeding.

Upon the appointment of a receiver, the office of mayor shall be abolished, and the receiver shall exercise all the powers of the mayor under the general laws, special laws, the city charter and ordinances. Other elected officials of the city shall continue to be elected in accordance with the provisions of the city charter, and shall serve solely in an advisory capacity to the receiver.

SECTION 8. Notwithstanding the provisions of chapter 70 of the general laws or any other general or special law to the contrary, all or part of the expenditures by the city for principal and interest payable with respect to debt incurred by the city for the construction of school buildings, net of the amount of reimbursement from the commonwealth on account of such school construction debt, may in the discretion of the finance control board established by section 6 or the receiver appointed under section 7 be counted as net school spending.

SECTION 9: Notwithstanding the provisions of chapter 70 of the general laws or any other general or special law to the contrary, all or part of the expenditures by the city for school transportation costs necessary to comply with any desegregation plan may in the discretion of the finance control board established by section 6 or the receiver appointed under section 7 be counted as net school spending.

SECTION 10. Notwithstanding the provisions of chapter 60 of the general laws, the finance control board established under section 6 or the receiver appointed under section 7 of this act may invoke the provisions of this section by a written statement filed with the treasurer and the city council, which statement shall also be given by publication as defined in section 1 of chapter 60 of the general laws and recorded in the registry of deeds.

If the finance control board or the receiver invokes the provisions of this section, the rights of redemption from tax title of all parcels of real estate for which the tax title is held by the city of Springfield shall be foreclosed by operation of law without the necessity of sale pursuant to section 79 of the chapter 60 or of filing a petition to foreclose under section 65 of chapter 60, at the expiration of one year from the effective date of publication of the statement required by the first paragraph of this section or one year from the date of the tax taking, whichever is later; provided however, that the city has given notice by certified or registered mail to any person who

has filed a statement with the city under section 39 of chapter 60, and to assessed owners, and has given notice by publication, as defined in section 1 of chapter 60, at least three months before the expiration of the one year redemption period, which notice shall list each parcel by address and by the name of the assessed owner at the time of the tax taking or sale, and the assessed owner for the most recent annual assessment, if different. The provisions of this section shall apply to tax titles created by instruments recorded prior to the effective date of this act and to those recorded during the existence of the board or receiver. Such provisions shall have no effect on any legal proceeding commenced prior to July 1, 2005 in the courts of the commonwealth in which a party has appeared asserting a cause of action and claiming a right to redeem. The provisions of this section shall not apply to tax titles that are the subject of a payment agreement under an ordinance enacted pursuant to section 11 of this act, provided however that if the provisions of this section are invoked the city shall record at the registry of deeds a list of all parcels subject to such agreements. The finance control board or the receiver shall have the power to disclaim title to any property acquired by foreclosure under this section, if it is of the opinion that the title so acquired is of doubtful validity.

SECTION 11. The city of Springfield may, with prior approval of the finance control board, by ordinance authorize payment agreements between the treasurer and persons entitled to redeem parcels in tax title. Such agreements shall be for a maximum term of no more than three years, or such lesser period as the ordinance may specify, and may waive up to thirty percent of the interest that has accrued on the amount of the tax title account, subject to such lower limit as the ordinance may specify. An ordinance under this section shall provide for such agreements and waivers uniformly for classes of tax titles defined in the ordinance. Any such agreement must require a minimum payment at the inception of the agreement of forty percent of the

amount needed to redeem the parcel. During the term of the agreement the treasurer may not bring an action to foreclose the tax title unless payments are not made in accordance with the schedule set out in the agreement, or timely payments are not made on other amounts due to the municipality that constitute a lien on the same parcel.

SECTION 12. In addition to the supplemental reserve fund under St. 1989 c. 656 s.7, there shall be in the city of Springfield a capital reserve fund into which the city shall appropriate in each fiscal year at least one and one-half percent of the amount of property taxes committed for the preceding fiscal year. The fund may be appropriated only for purposes for which the city could borrow for ten years or longer under Chapter 44 of the general laws.

SECTION 13: The provisions of this act shall be effective notwithstanding any general or special law, charter provision or ordinance to the contrary.

SECTION 14. The provisions of this act shall be severable.

SECTION 15. This act shall take effect upon its passage.

